

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 514

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE
SCHEDULE OF SENTENCING FOR CERTAIN OFFENSES; AMENDING SECTIONS
OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-73 NMSA 1978 (being Laws 1965,
Chapter 248, Section 74, as amended) is amended to read:

"7-1-73. FALSE STATEMENT AND FRAUD.--~~[Any individual or]~~

A. A person who:

~~[A.]~~ (1) willfully makes and subscribes any
return, statement or other document that contains or is
verified by a written declaration that it is true and correct
as to every material matter and that the ~~[individual or]~~ person
does not believe to be true and correct as to every material
matter;

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1 [~~B.~~] (2) files any return electronically,
2 knowing the information in the return is not true and correct
3 as to every material matter; or

4 [~~C.~~] (3) with intent to evade or defeat the
5 payment or collection of any tax, or, knowing that the probable
6 consequences of the person's act will be to evade or defeat the
7 payment or collection of any tax, removes, conceals or releases
8 any property on which levy is authorized or that is liable for
9 payment of tax under the provisions of Section 7-1-61 NMSA
10 1978, or aids in accomplishing or causes the accomplishment of
11 any of the foregoing is guilty of [~~a felony and, upon~~
12 ~~conviction thereof, shall be fined not more than five thousand~~
13 ~~dollars (\$5,000) or imprisoned not less than six months or more~~
14 ~~than three years, or both, together with costs of prosecution]~~
15 tax fraud.

16 B. Whoever commits tax fraud when the amount of the
17 tax owed is two hundred fifty dollars (\$250) or less is guilty
18 of a petty misdemeanor and shall be sentenced pursuant to the
19 provisions of Section 31-19-1 NMSA 1978.

20 C. Whoever commits tax fraud when the amount of the
21 tax owed is over two hundred fifty dollars (\$250) but not more
22 than five hundred dollars (\$500) is guilty of a misdemeanor and
23 shall be sentenced pursuant to the provisions of Section
24 31-19-1 NMSA 1978.

25 D. Whoever commits tax fraud when the amount of the

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1 tax owed is over five hundred dollars (\$500) but not more than
2 two thousand five hundred dollars (\$2,500) is guilty of a
3 fourth degree felony and shall be sentenced pursuant to the
4 provisions of Section 31-18-15 NMSA 1978.

5 E. Whoever commits tax fraud when the amount of the
6 tax owed is over two thousand five hundred dollars (\$2,500) but
7 not more than twenty thousand dollars (\$20,000) is guilty of a
8 third degree felony and shall be sentenced pursuant to the
9 provisions of Section 31-18-15 NMSA 1978.

10 F. Whoever commits tax fraud when the amount of the
11 tax owed is over twenty thousand dollars (\$20,000) is guilty of
12 a second degree felony and shall be sentenced pursuant to the
13 provisions of Section 31-18-15 NMSA 1978.

14 G. In addition to the fines imposed pursuant to
15 this section, a person who commits tax fraud shall pay the
16 costs of the prosecution of his case."

17 Section 2. Section 30-14-1 NMSA 1978 (being Laws 1963,
18 Chapter 303, Section 14-1, as amended) is amended to read:

19 "30-14-1. CRIMINAL TRESPASS.--

20 A. Criminal trespass consists of knowingly entering
21 or remaining upon posted private property without possessing
22 written permission from the owner or person in control of the
23 land. The provisions of this subsection do not apply if:

24 (1) the owner or person in control of the land
25 has entered into an agreement with the department of game and

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1 fish granting access to the land to the general public for the
2 purpose of taking any game animals, birds or fish by hunting or
3 fishing; or

4 (2) a person is in possession of a landowner
5 license given to him by the owner or person in control of the
6 land that grants access to that particular private land for the
7 purpose of taking any game animals, birds or fish by hunting or
8 fishing.

9 B. Criminal trespass also consists of knowingly
10 entering or remaining upon the unposted lands of another
11 knowing that such consent to enter or remain is denied or
12 withdrawn by the owner or occupant [~~thereof~~] of the lands.
13 Notice of no consent to enter shall be deemed sufficient notice
14 to the public and evidence to the courts, by the posting of the
15 property at all vehicular access entry ways.

16 C. Criminal trespass also consists of knowingly
17 entering or remaining upon lands owned, operated or controlled
18 by the state or any of its political subdivisions knowing that
19 consent to enter or remain is denied or withdrawn by the
20 custodian [~~thereof~~] of the lands.

21 D. Any person who enters upon the lands of another
22 without prior permission and injures, damages or destroys any
23 part of the realty or its improvements, including buildings,
24 structures, trees, shrubs or other natural features, [~~is guilty~~
25 ~~of a misdemeanor and he~~] shall be liable to the owner, lessee

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1 or person in lawful possession for civil damages in an amount
 2 equal to double the value of the damage to the property injured
 3 or destroyed.

4 E. Whoever commits criminal trespass is guilty of a
 5 misdemeanor. Additionally, any person who violates the
 6 provisions of Subsection A, B or C of this section, when in
 7 connection with hunting, fishing or trapping activity, shall
 8 have his hunting or fishing license revoked by the state game
 9 commission for a period of not less than three years, pursuant
 10 to the provisions of Section 17-3-34 NMSA 1978.

11 F. Whoever knowingly removes, tampers with or
 12 destroys any "no trespass" sign is guilty of a petty
 13 misdemeanor; except when the damage to the sign amounts to more
 14 than one thousand dollars (\$1,000), he [~~or she~~] is guilty of a
 15 misdemeanor and shall be subject to imprisonment in the county
 16 jail for a definite term less than one year or a fine not more
 17 than one thousand dollars (\$1,000) or to both such imprisonment
 18 and fine in the discretion of the judge.

19 G. This section, as amended, shall be published in
 20 all issues of "Big Game Hunt Proclamation" as published by the
 21 department of game and fish."

22 Section 3. Section 30-15-1 NMSA 1978 (being Laws 1963,
 23 Chapter 303, Section 15-1) is amended to read:

24 "30-15-1. CRIMINAL DAMAGE TO PROPERTY.--

25 A. Criminal damage to property consists of

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1 intentionally damaging any real or personal property of another
2 without the consent of the owner of the property.

3 B. Whoever commits criminal damage to property [is
4 guilty of a petty misdemeanor, except that when the damage to
5 the property amounts to more than one thousand dollars
6 (\$1,000), he is guilty of a fourth degree felony] when the
7 damage to the property is two hundred fifty dollars (\$250) or
8 less is guilty of a petty misdemeanor.

9 C. Whoever commits criminal damage to property when
10 the damage to the property is over two hundred fifty dollars
11 (\$250) but not more than five hundred dollars (\$500) is guilty
12 of a misdemeanor.

13 D. Whoever commits criminal damage to property when
14 the damage to the property is over five hundred dollars (\$500)
15 but not more than two thousand five hundred dollars (\$2,500) is
16 guilty of a fourth degree felony.

17 E. Whoever commits criminal damage to property when
18 the damage to the property is over two thousand five hundred
19 dollars (\$2,500) but not more than twenty thousand dollars
20 (\$20,000) is guilty of a third degree felony.

21 F. Whoever commits criminal damage to property when
22 the damage to the property is over twenty thousand dollars
23 (\$20,000) is guilty of a second degree felony."

24 Section 4. Section 30-15-1.1 NMSA 1978 (being Laws 1990,
25 Chapter 36, Section 1, as amended) is amended to read:

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1 "30-15-1.1. UNAUTHORIZED GRAFFITI ON PERSONAL OR REAL
2 PROPERTY.--

3 A. Graffiti consists of intentionally and
4 maliciously defacing any real or personal property of another
5 with graffiti or other inscribed material inscribed with ink,
6 paint, spray paint, crayon, charcoal or the use of any object
7 without [~~the~~] consent or reasonable [~~ground~~] grounds to believe
8 [~~there is consent of~~] the owner of the property has given
9 consent.

10 B. Whoever commits graffiti to real or personal
11 property when the damage to the property is [~~one thousand~~
12 ~~dollars (\$1,000)~~] two hundred fifty dollars (\$250) or less is
13 guilty of a petty misdemeanor and shall be required to perform
14 a mandatory one hundred hours of community service within a
15 continuous six-month period immediately following his
16 conviction and shall be required to [~~make~~] provide restitution
17 to the property owner for the cost of damages and restoration.

18 C. Whoever commits graffiti to real or personal
19 property when the damage to the property is [~~greater than one~~
20 ~~thousand dollars (\$1,000) is guilty of a fourth degree felony~~]
21 over two hundred fifty dollars (\$250) but not more than five
22 hundred dollars (\$500) is guilty of a misdemeanor and shall be
23 required to perform a mandatory one hundred sixty hours of
24 community service within a continuous eight-month period
25 immediately following his conviction and shall be required to

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1 provide restitution to the property owner for the cost of
2 damages and restoration [~~as a condition of probation or~~
3 ~~following any term of incarceration as a condition of parole~~].

4 D. Whoever commits graffiti to real or personal
5 property when the damage to the property is over five hundred
6 dollars (\$500) but not more than two thousand five hundred
7 dollars (\$2,500) is guilty of a fourth degree felony and shall
8 be required to perform a mandatory two hundred forty hours of
9 community service following his conviction and shall be
10 required to provide restitution to the property owner for the
11 cost of damages and restoration.

12 E. Whoever commits graffiti to real or personal
13 property when the damage to the property is over two thousand
14 five hundred dollars (\$2,500) but not more than twenty thousand
15 dollars (\$20,000) is guilty of a third degree felony and shall
16 be required to perform a mandatory two hundred forty hours of
17 community service following his conviction and shall be
18 required to provide restitution to the property owner for the
19 cost of damages and restoration.

20 F. Whoever commits graffiti to real or personal
21 property when the damage to the property is over twenty
22 thousand dollars (\$20,000) is guilty of a second degree felony
23 and shall be required to perform a mandatory two hundred forty
24 hours of community service following his conviction and shall
25 be required to provide restitution to the property owner for

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1 the cost of damages and restoration.

2 ~~[D-]~~ G. When a single occurrence of graffiti is
3 committed by more than one individual, the court may apportion
4 the amount of restitution owed by each offender in accordance
5 with each offender's degree of culpability."

6 Section 5. Section 30-15-4 NMSA 1978 (being Laws 1963,
7 Chapter 303, Section 15-3, as amended) is amended to read:

8 "30-15-4. DESECRATION OF A CHURCH.--

9 A. Desecration of a church consists of willfully,
10 maliciously and intentionally defacing a church or any portion
11 ~~[thereof]~~ of it.

12 B. ~~Whoever commits desecration of a church [is~~
13 ~~guilty of a misdemeanor, except that when the damage to the~~
14 ~~church amounts to more than one thousand dollars (\$1,000), he~~
15 ~~is guilty of a fourth degree felony]~~ when the damage to the
16 church is two hundred fifty dollars (\$250) or less is guilty of
17 a petty misdemeanor.

18 C. Whoever commits desecration of a church when the
19 damage to the church is over two hundred fifty dollars (\$250)
20 but not more than five hundred dollars (\$500) is guilty of a
21 misdemeanor.

22 D. Whoever commits desecration of a church when the
23 damage to the church is over five hundred dollars (\$500) but
24 not more than two thousand five hundred dollars (\$2,500) is
25 guilty of a fourth degree felony.

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1 E. Whoever commits desecration of a church when the
2 damage to the church is over two thousand five hundred dollars
3 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
4 guilty of a third degree felony.

5 F. Whoever commits desecration of a church when the
6 damage to the church is over twenty thousand dollars (\$20,000)
7 is guilty of a second degree felony."

8 Section 6. Section 30-16-1 NMSA 1978 (being Laws 1963,
9 Chapter 303, Section 16-1, as amended) is amended to read:

10 "30-16-1. LARCENY.--

11 A. Larceny consists of the stealing of anything of
12 value ~~[which]~~ that belongs to another.

13 B. Whoever commits larceny when the value of the
14 property stolen is ~~[one hundred dollars (\$100)]~~ two hundred
15 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

16 C. Whoever commits larceny when the value of the
17 property stolen is over ~~[one hundred dollars (\$100)]~~ two
18 hundred fifty dollars (\$250) but not more than ~~[two hundred~~
19 ~~fifty dollars (\$250)]~~ five hundred dollars (\$500) is guilty of
20 a misdemeanor.

21 D. Whoever commits larceny when the value of the
22 property stolen is over ~~[two hundred fifty dollars (\$250)]~~ five
23 hundred dollars (\$500) but not more than two thousand five
24 hundred dollars (\$2,500) is guilty of a fourth degree felony.

25 E. Whoever commits larceny when the value of the

1 property stolen is over two thousand five hundred dollars
 2 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
 3 guilty of a third degree felony.

4 F. Whoever commits larceny when the value of the
 5 property stolen is over twenty thousand dollars (\$20,000) is
 6 guilty of a second degree felony.

7 G. Whoever commits larceny when the property of
 8 value stolen is livestock is guilty of a third degree felony
 9 regardless of its value.

10 H. Whoever commits larceny when the property of
 11 value stolen is a firearm is guilty of a fourth degree felony
 12 when its value is less than two thousand five hundred dollars
 13 (\$2,500)."

14 Section 7. Section 30-16-6 NMSA 1978 (being Laws 1963,
 15 Chapter 303, Section 16-6, as amended) is amended to read:

16 "30-16-6. FRAUD.--

17 A. Fraud consists of the intentional
 18 misappropriation or taking of anything of value [~~which~~] that
 19 belongs to another by means of fraudulent conduct, practices or
 20 representations.

21 B. Whoever commits fraud when the value of the
 22 property misappropriated or taken is [~~one hundred dollars~~
 23 ~~(\$100)] two hundred fifty dollars (\$250) or less is guilty of a
 24 petty misdemeanor.~~

25 C. Whoever commits fraud when the value of the

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1 property misappropriated or taken is over [~~one hundred dollars~~
2 ~~(\$100)~~] two hundred fifty dollars (\$250) but not more than [~~two~~
3 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) is
4 guilty of a misdemeanor.

5 D. Whoever commits fraud when the value of the
6 property misappropriated or taken is over [~~two hundred fifty~~
7 ~~dollars (\$250)~~] five hundred dollars (\$500) but not more than
8 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
9 guilty of a fourth degree felony.

10 [~~Whoever commits fraud when the property misappropriated~~
11 ~~or taken is a firearm is guilty of a fourth degree felony.~~]

12 E. Whoever commits fraud when the value of the
13 property misappropriated or taken is over [~~twenty-five~~] two
14 thousand five hundred dollars (\$2,500) but not more than twenty
15 thousand dollars (\$20,000) is guilty of a third degree felony.

16 F. Whoever commits fraud when the value of the
17 property misappropriated or taken exceeds twenty thousand
18 dollars (\$20,000) is guilty of a second degree felony.

19 G. Whoever commits fraud when the property
20 misappropriated or taken is a firearm is guilty of a fourth
21 degree felony when its value is less than two thousand five
22 hundred dollars (\$2,500)."

23 Section 8. Section 30-16-7 NMSA 1978 (being Laws 1971,
24 Chapter 282, Section 1, as amended) is amended to read:

25 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR WIC

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1 CHECKS.--

2 A. Unlawful dealing in federal food coupons or WIC
3 checks consists of a person buying, selling, trading, bartering
4 or possessing food coupons or WIC checks issued by the United
5 States department of agriculture with the intent to obtain an
6 economic benefit to which he is not entitled under the rules of
7 the human services department pertaining to the food stamp
8 program or of the department of health pertaining to the
9 special supplemental food program for women, infants and
10 children.

11 B. Whoever commits unlawful dealing in federal food
12 coupons or WIC checks when the value of the food coupons or WIC
13 checks involved is [~~one hundred dollars (\$100)~~] two hundred
14 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

15 C. Whoever commits unlawful dealing in federal food
16 coupons or WIC checks when the value of the food coupons or WIC
17 checks involved is over [~~one hundred dollars (\$100)~~] two
18 hundred fifty dollars (\$250) but not more than [~~two hundred~~
19 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
20 a misdemeanor.

21 D. Whoever commits unlawful dealing in federal food
22 coupons or WIC checks when the value of the food coupons or WIC
23 checks involved is over [~~two hundred fifty dollars (\$250)~~] five
24 hundred dollars (\$500) but not more than two thousand five
25 hundred dollars (\$2,500) is guilty of a fourth degree felony.

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1 E. Whoever commits unlawful dealing in federal food
2 coupons or WIC checks when the value of the food coupons or WIC
3 checks involved is over two thousand five hundred dollars
4 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
5 guilty of a third degree felony.

6 F. Whoever commits unlawful dealing in federal food
7 coupons or WIC checks when the value of the food coupons or WIC
8 checks involved exceeds twenty thousand dollars (\$20,000) is
9 guilty of a second degree felony.

10 G. For the purposes of this section, "federal food
11 coupons or WIC checks" [~~include~~] includes electronic benefit
12 transfer cards or any other method through which food stamps or
13 WIC benefits may be obtained."

14 Section 9. Section 30-16-8 NMSA 1978 (being Laws 1963,
15 Chapter 303, Section 16-7, as amended) is amended to read:

16 "30-16-8. EMBEZZLEMENT.--

17 A. Embezzlement consists of [~~the~~] a person
18 embezzling or converting to his own use [~~of~~] anything of value,
19 with which he has been entrusted, with fraudulent intent to
20 deprive the owner thereof. Each separate incident of
21 embezzlement or conversion constitutes a separate and distinct
22 offense.

23 B. Whoever commits embezzlement when the value of
24 the thing embezzled or converted is [~~one hundred dollars~~
25 ~~(\$100)~~] two hundred fifty dollars (\$250) or less is guilty of a

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1 petty misdemeanor.

2 C. Whoever commits embezzlement when the value of
3 the thing embezzled or converted is over [~~one hundred dollars~~
4 ~~(\$100)~~] two hundred fifty dollars (\$250) but not more than [~~two~~
5 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) is
6 guilty of a misdemeanor.

7 D. Whoever commits embezzlement when the value of
8 the thing embezzled or converted is over [~~two hundred fifty~~
9 ~~dollars (\$250)~~] five hundred dollars (\$500) but not more than
10 two thousand five hundred dollars (\$2,500) is guilty of a
11 fourth degree felony.

12 E. Whoever commits embezzlement when the value of
13 the thing embezzled or converted is over two thousand five
14 hundred dollars (\$2,500) but not more than twenty thousand
15 dollars (\$20,000) is guilty of a third degree felony.

16 F. Whoever commits embezzlement when the value of
17 the thing embezzled or converted exceeds twenty thousand
18 dollars (\$20,000) is guilty of a second degree felony."

19 Section 10. Section 30-16-10 NMSA 1978 (being Laws 1963,
20 Chapter 303, Section 16-9) is amended to read:

21 "30-16-10. FORGERY.--

22 A. Forgery consists of:

23 [~~A.~~] (1) falsely making or altering any
24 signature to, or any part of, any writing purporting to have
25 any legal efficacy with intent to injure or defraud; or

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1 [~~B.~~] (2) knowingly issuing or transferring a
2 forged writing with intent to injure or defraud.

3 B. Whoever commits forgery [is guilty of a third
4 degree felony] when there is no quantifiable damage or when the
5 damage is two thousand five hundred dollars (\$2,500) or less is
6 guilty of a fourth degree felony.

7 C. Whoever commits forgery when the damage is over
8 two thousand five hundred dollars (\$2,500) but not more than
9 twenty thousand dollars (\$20,000) is guilty of a third degree
10 felony.

11 D. Whoever commits forgery when the damage is over
12 twenty thousand dollars (\$20,000) is guilty of a second degree
13 felony."

14 Section 11. Section 30-16-11 NMSA 1978 (being Laws 1963,
15 Chapter 303, Section 16-11, as amended) is amended to read:

16 "30-16-11. RECEIVING STOLEN PROPERTY--PENALTIES.--

17 A. Receiving stolen property means intentionally to
18 receive, retain or dispose of stolen property knowing that it
19 has been stolen or believing it has been stolen, unless the
20 property is received, retained or disposed of with intent to
21 restore it to the owner.

22 B. The requisite knowledge or belief that property
23 has been stolen is presumed in the case of a dealer who:

24 (1) is found in possession or control of
25 property stolen from two or more persons on separate occasions;

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1 (2) acquires stolen property for a
2 consideration [~~which~~] that the dealer knows is far below the
3 property's reasonable value. A dealer shall be presumed to
4 know the fair market value of the property in which he deals;
5 or

6 (3) is found in possession or control of five
7 or more items of property stolen within one year prior to the
8 time of the incident charged pursuant to this section.

9 C. For the purposes of this section:

10 (1) "dealer" means a person in the business of
11 buying or selling goods or commercial merchandise; and

12 (2) "stolen property" means any property
13 acquired by theft, larceny, fraud, embezzlement, robbery or
14 armed robbery.

15 D. Whoever commits receiving stolen property when
16 the value of the property is [~~one hundred dollars (\$100)~~] two
17 hundred fifty dollars (\$250) or less is guilty of a petty
18 misdemeanor.

19 E. Whoever commits receiving stolen property when
20 the value of the property is over [~~one hundred dollars (\$100)~~]
21 two hundred fifty dollars (\$250) but not more than [~~two hundred~~
22 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
23 a misdemeanor.

24 F. Whoever commits receiving stolen property when
25 the value of the property is over [~~two hundred fifty dollars~~

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1 ~~(\$250)]~~ five hundred dollars (\$500) but not more than two
2 thousand five hundred dollars (\$2,500) is guilty of a fourth
3 degree felony.

4 G. Whoever commits receiving stolen property when
5 the value of the property is over two thousand five hundred
6 dollars (\$2,500) but not more than twenty thousand dollars
7 (\$20,000) is guilty of a third degree felony.

8 H. Whoever commits receiving stolen property when
9 the value of the property exceeds twenty thousand dollars
10 (\$20,000) is guilty of a second degree felony.

11 I. Whoever commits receiving stolen property when
12 the property is a firearm is guilty of a fourth degree felony
13 when its value is less than two thousand five hundred dollars
14 (\$2,500)."

15 Section 12. Section 30-16-13 NMSA 1978 (being Laws 1963,
16 Chapter 303, Section 16-13) is amended to read:

17 "30-16-13. CHEATING A MACHINE OR DEVICE.--

18 A. Cheating a machine or device consists of [~~any~~] a
19 person, with intent to defraud, attempting to operate or
20 causing to be operated any automatic vending machine, parking
21 meter, coin-box telephone or any machine or [~~receptable~~]
22 receptacle designed to receive lawful money of the United
23 States in connection with the sale, use or enjoyment of
24 property or service by means of any slug or by any false,
25 counterfeited, mutilated, sweated or foreign coin or by any

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1 means, method, trick or device.

2 B. Whoever commits cheating a machine or device
3 when the value of the property or service is two hundred fifty
4 dollars (\$250) or less is guilty of a petty misdemeanor.

5 C. Whoever commits cheating a machine or device
6 when the value of the property or service is over two hundred
7 fifty dollars (\$250) but not more than five hundred dollars
8 (\$500) is guilty of a misdemeanor.

9 D. Whoever commits cheating a machine or device
10 when the value of the property or service is over five hundred
11 dollars (\$500) but not more than two thousand five hundred
12 dollars (\$2,500) is guilty of a fourth degree felony.

13 E. Whoever commits cheating a machine or device
14 when the value of the property or service is over two thousand
15 five hundred dollars (\$2,500) but not more than twenty thousand
16 dollars (\$20,000) is guilty of a third degree felony.

17 F. Whoever commits cheating a machine or device
18 when the value of the property or service is over twenty
19 thousand dollars (\$20,000) is guilty of a second degree
20 felony."

21 Section 13. Section 30-16-16 NMSA 1978 (being Laws 1963,
22 Chapter 303, Section 16-16, as amended) is amended to read:

23 "30-16-16. FALSELY OBTAINING SERVICES OR ACCOMMODATIONS--
24 PROBABLE CAUSE--IMMUNITY--PENALTY.--

25 A. Falsely obtaining services or accommodations

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1 consists of [~~any~~] a person obtaining service, food,
2 entertainment or accommodations without paying with the intent
3 to cheat or defraud the owner or person supplying [~~such~~] the
4 service, food, entertainment or accommodations.

5 B. [~~Any~~] A law enforcement officer may arrest
6 without warrant [~~any~~] a person [~~he~~] the officer has probable
7 cause [~~for believing~~] to believe has committed the crime of
8 falsely obtaining services or accommodations. [~~as defined in~~
9 ~~this section.~~ Any] A merchant, owner or proprietor who causes
10 such an arrest shall not be criminally or civilly liable if he
11 has actual knowledge that the person [~~so~~] arrested has
12 committed the crime of falsely obtaining services or
13 accommodations.

14 C. Whoever commits falsely obtaining services or
15 accommodations when the value of the service, food,
16 entertainment or accommodations furnished is:

17 (1) less than [~~one hundred dollars (\$100)]~~ two
18 hundred fifty dollars (\$250) is guilty of a petty misdemeanor;

19 (2) more than [~~one hundred dollars (\$100)]~~ two
20 hundred fifty dollars (\$250) but not more than [~~two hundred~~
21 ~~fifty dollars (\$250)]~~ five hundred dollars (\$500) is guilty of
22 a misdemeanor;

23 (3) more than [~~two hundred fifty dollars~~
24 ~~(\$250)]~~ five hundred dollars (\$500) but not more than two
25 thousand five hundred dollars (\$2,500) is guilty of a fourth

1 degree felony;

2 (4) more than two thousand five hundred
3 dollars (\$2,500) but not more than twenty thousand dollars
4 (\$20,000) is guilty of a third degree felony; and

5 (5) more than twenty thousand dollars
6 (\$20,000) is guilty of a second degree felony."

7 Section 14. Section 30-16-18 NMSA 1978 (being Laws 1963,
8 Chapter 303, Section 16-18, as amended) is amended to read:

9 "30-16-18. IMPROPER SALE, DISPOSAL, REMOVAL OR CONCEALING
10 OF ENCUMBERED PROPERTY.--

11 A. Improper sale, disposal, removal or concealing
12 of encumbered property consists of [~~any~~] a person knowingly,
13 and with intent to defraud, selling, transferring, removing or
14 concealing, or in any manner disposing of, any personal
15 property upon which a security interest, chattel mortgage or
16 other lien or encumbrance has attached or been retained,
17 without the written consent of the holder of [~~such~~] the
18 security interest, chattel mortgage, conditional sales
19 contract, lien or encumbrance.

20 [~~Any~~] B. A broker, dealer or [~~any~~] an agent, buyer
21 or seller who receives any remuneration whatsoever for transfer
22 of equity or arranges the assumption of any loan on a mobile
23 home or recreational vehicle [~~which~~] that has a lien filed upon
24 [~~such~~] the vehicle with the motor vehicle division of the
25 [~~transportation~~] taxation and revenue department [~~must~~] shall

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1 obtain written consent from the lien holder approving
2 transferee's assumption of transferor's obligation to the lien
3 holder within ten days of [~~such~~] the transaction before [~~such~~]
4 the transaction is entered into, provided that the lien
5 holder's written consent shall not unreasonably be withheld.
6 Failure to do so constitutes an improper sale, disposal, [~~or~~]
7 removal or [~~concealment~~] concealing of encumbered property
8 [~~which~~] that is punishable as a petty misdemeanor.

9 C. Whoever commits improper sale, disposal, removal
10 or concealing of encumbered property [~~where~~] when the value of
11 [~~such~~] the property is [~~one hundred dollars (\$100)~~] two hundred
12 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

13 D. Whoever commits improper sale, disposal, removal
14 or concealing of encumbered property [~~where~~] when the value of
15 [~~such~~] the property is over [~~one hundred dollars (\$100)~~] two
16 hundred fifty dollars (\$250) but not more than [~~two hundred~~
17 fifty dollars (\$250)] five hundred dollars (\$500) is guilty of
18 a misdemeanor.

19 E. Whoever commits improper sale, disposal, removal
20 or concealing of encumbered property [~~where~~] when the value of
21 [~~such~~] the property is over [~~two hundred fifty dollars (\$250)~~]
22 five hundred dollars (\$500) but not more than [~~twenty-five~~] two
23 thousand five hundred dollars (\$2,500) is guilty of a fourth
24 degree felony.

25 F. Whoever commits improper sale, disposal, removal

1 or concealing of encumbered property [~~where~~] when the value of
 2 [~~such~~] the property is over [~~twenty-five~~] two thousand five
 3 hundred dollars (\$2,500) but not more than twenty thousand
 4 dollars (\$20,000) is guilty of a third degree felony.

5 G. Whoever commits improper sale, disposal, removal
 6 or concealing of encumbered property [~~where~~] when the value of
 7 [~~such~~] the property exceeds twenty [~~thousand~~] thousand dollars
 8 (\$20,000) is guilty of a second degree felony."

9 Section 14. Section 30-16-20 NMSA 1978 (being Laws 1965,
 10 Chapter 5, Section 2, as amended) is amended to read:

11 "30-16-20. [~~CRIME OF~~] SHOPLIFTING [~~CREATED~~].--

12 A. Shoplifting consists of [~~any~~] one or more of the
 13 following acts:

14 (1) willfully taking possession of [~~any~~]
 15 merchandise with the intention of converting it without paying
 16 for it;

17 (2) willfully concealing [~~any~~] merchandise
 18 with the intention of converting it without paying for it;

19 (3) willfully altering [~~any~~] a label, price
 20 tag or marking upon [~~any~~] merchandise with the intention of
 21 depriving the merchant of all or some part of the value of it;
 22 or

23 (4) willfully transferring [~~any~~] merchandise
 24 from the container in or on which it is displayed to [~~any~~
 25 ~~other~~] another container with the intention of depriving the

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1 merchant of all or some part of the value of it.

2 B. Whoever commits shoplifting when the value of
3 the merchandise shoplifted:

4 (1) is [~~one hundred dollars (\$100)~~] two
5 hundred fifty dollars (\$250) or less is guilty of a petty
6 misdemeanor;

7 (2) is more than [~~one hundred dollars (\$100)~~]
8 two hundred fifty dollars (\$250) but not more than [~~two hundred~~
9 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
10 a misdemeanor;

11 (3) is more than [~~two hundred fifty dollars~~
12 ~~(\$250)~~] five hundred dollars (\$500) but not more than two
13 thousand five hundred dollars (\$2,500) is guilty of a fourth
14 degree felony;

15 (4) is more than two thousand five hundred
16 dollars (\$2,500) but not more than twenty thousand dollars
17 (\$20,000) is guilty of a third degree felony; or

18 (5) is more than twenty thousand dollars
19 (\$20,000) is guilty of a second degree felony.

20 C. [~~Any~~] An individual charged with a violation of
21 this section shall not be charged with a separate or additional
22 offense arising out of the same transaction."

23 Section 16. Section 30-16-33 NMSA 1978 (being Laws 1971,
24 Chapter 239, Section 9) is amended to read:

25 "30-16-33. FRAUDULENT USE OF CREDIT CARDS.--

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1 A. ~~[A person is guilty of a fourth degree felony~~
2 ~~if, with intent to defraud, he uses to obtain anything of~~
3 ~~value]~~ Fraudulent use of a credit card consists of a person
4 obtaining anything of value, with intent to defraud, by using:

5 (1) a credit card obtained in violation of
6 Sections ~~[40A-16-24 through 40A-16-38 NMSA 1953; or]~~ 30-16-25
7 through 30-16-38 NMSA 1978;

8 (2) a credit card ~~[which]~~ that is invalid,
9 expired or revoked; ~~[or]~~

10 (3) a credit card while fraudulently
11 representing that he is the cardholder named on the credit card
12 or an authorized agent or representative of the cardholder
13 named on the credit card; or

14 (4) a credit card issued in the name of
15 another person without the consent of the person to whom the
16 card has been issued.

17 ~~[B. If the value of all things of value obtained by~~
18 ~~any person from one or more merchants, an issuer or a~~
19 ~~participating party, in violation of this section exceeds three~~
20 ~~hundred dollars (\$300) in any consecutive six months period,~~
21 ~~then the offense of the violator is a third degree felony.]~~

22 B. Whoever commits fraudulent use of a credit card
23 when the value of the property or service is two hundred fifty
24 dollars (\$250) or less in any consecutive six-month period is
25 guilty of a petty misdemeanor.

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1 C. Whoever commits fraudulent use of a credit card
2 when the value of the property or service is over two hundred
3 fifty dollars (\$250) but not more than five hundred dollars
4 (\$500) in any consecutive six-month period is guilty of a
5 misdemeanor.

6 D. Whoever commits fraudulent use of a credit card
7 when the value of the property or service is over five hundred
8 dollars (\$500) but not more than two thousand five hundred
9 dollars (\$2,500) in any consecutive six-month period is guilty
10 of a fourth degree felony.

11 E. Whoever commits fraudulent use of a credit card
12 when the value of the property or service is over two thousand
13 five hundred dollars (\$2,500) but not more than twenty thousand
14 dollars (\$20,000) in any consecutive six-month period is guilty
15 of a third degree felony.

16 F. Whoever commits fraudulent use of a credit card
17 when the value of the property or service is over twenty
18 thousand dollars (\$20,000) in any consecutive six-month period
19 is guilty of a second degree felony."

20 Section 17. Section 30-16-34 NMSA 1978 (being Laws 1971,
21 Chapter 239, Section 10) is amended to read:

22 "30-16-34. FRAUDULENT ACTS BY MERCHANTS OR THEIR
23 EMPLOYEES.--

24 A. ~~[Any]~~ A merchant or the employee of ~~[any]~~ a
25 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud

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1 if, with intent to defraud, he furnishes or allows to be
2 furnished anything of value upon presentation of a credit card:

3 (1) obtained or retained in violation of
4 Sections ~~[40A-16-24 through 40A-16-38 NMSA 1953; or]~~ 30-16-25
5 through 30-16-38 NMSA 1978;

6 (2) fraudulently made or embossed; [or]

7 (3) fraudulently signed; [or a credit card
8 which]

9 (4) that he knows is invalid, expired or
10 revoked [or a credit card presented]; or

11 (5) by a person whom he knows is not the
12 cardholder named on the credit card or an authorized agent or
13 representative of the cardholder named on the credit card.

14 ~~[If]~~ B. When the value of anything furnished by a
15 merchant, or by an employee of a merchant, in violation of this
16 section ~~[exceeds three hundred dollars (\$300), in any~~
17 ~~consecutive six months period, then the offense is a third~~
18 ~~degree felony]:~~

19 (1) is two hundred fifty dollars (\$250) or
20 less in any consecutive six-month period, the offense is a
21 petty misdemeanor;

22 (2) is more than two hundred fifty dollars
23 (\$250) but not more than five hundred dollars (\$500) in any
24 consecutive six-month period, the offense is a misdemeanor;

25 (3) is more than five hundred dollars (\$500)

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1 but not more than two thousand five hundred dollars (\$2,500) in
2 any consecutive six-month period, the offense is a fourth
3 degree felony;

4 (4) is more than two thousand five hundred
5 dollars (\$2,500) but not more than twenty thousand dollars
6 (\$20,000) in any consecutive six-month period, the offense is a
7 third degree felony; or

8 (5) is more than twenty thousand dollars
9 (\$20,000) in any consecutive six-month period, the offense is a
10 second degree felony.

11 ~~[B. Any]~~ C. A merchant or the employee of ~~[any]~~ a
12 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud
13 if, with intent to defraud, he fails to furnish anything of
14 value ~~[which]~~ that he represents in writing to the issuer or to
15 a participating party that he has furnished on a credit card or
16 cards of the issuer. ~~[If]~~ When the difference between the
17 value of anything actually furnished to ~~[any]~~ a person ~~[or~~
18 ~~persons]~~ and the value represented by the merchant to the
19 issuer or participating party ~~[exceeds three hundred dollars~~
20 ~~(\$300) in any consecutive six months period, then the offense~~
21 ~~is a third degree felony]:~~

22 (1) is two hundred fifty dollars (\$250) or
23 less in any consecutive six-month period, the offense is a
24 petty misdemeanor;

25 (2) is more than two hundred fifty dollars

1 (\$250) but not more than five hundred dollars (\$500) in any
 2 consecutive six-month period, the offense is a misdemeanor;

3 (3) is more than five hundred dollars (\$500)
 4 but not more than two thousand five hundred dollars (\$2,500) in
 5 any consecutive six-month period, the offense is a fourth
 6 degree felony;

7 (4) is more than two thousand five hundred
 8 dollars (\$2,500) but not more than twenty thousand dollars
 9 (\$20,000) in any consecutive six-month period, the offense is a
 10 third degree felony; or

11 (5) is more than twenty thousand dollars
 12 (\$20,000) in any consecutive six-month period, the offense is a
 13 second degree felony."

14 Section 18. Section 30-16-36 NMSA 1978 (being Laws 1971,
 15 Chapter 239, Section 12) is amended to read:

16 "30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF
 17 ACT.--~~[Any]~~ A person who receives ~~[the]~~ money, goods, services
 18 or anything else of value obtained in violation of Section
 19 ~~[40A-16-33 NMSA 1953]~~ 30-16-33 NMSA 1978, and who knows or has
 20 reason to believe that it was so obtained, violates this
 21 section. The degree of the offense is determined as follows:

22 A. ~~[if]~~ when the value of all things of value
 23 obtained from ~~[any]~~ a person ~~[or persons]~~ in violation of this
 24 section is ~~[one hundred dollars (\$100)]~~ two hundred fifty
 25 dollars (\$250) or less in any consecutive ~~[six months]~~

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1 six-month period, then the offense is a petty misdemeanor;

2 B. ~~[if]~~ when the value of all things of value
3 obtained from ~~[any]~~ a person ~~[or persons]~~ in violation of this
4 section is more than ~~[one hundred dollars (\$100)]~~ two hundred
5 fifty dollars (\$250) but ~~[less than three hundred dollars~~
6 ~~(\$300) in any consecutive six months period, then the offense~~
7 ~~is a fourth degree felony;~~

8 ~~C. if the value of all things of value obtained~~
9 ~~from any person or persons in violation of this section is~~
10 ~~three hundred dollars (\$300) or more in any consecutive six~~
11 ~~months period, then the offense is a third degree felony]~~ not
12 more than five hundred dollars (\$500) in any consecutive six-
13 month period, then the offense is a misdemeanor;

14 C. when the value of all things of value obtained
15 from a person in violation of this section is more than five
16 hundred dollars (\$500) but not more than two thousand five
17 hundred dollars (\$2,500) in any consecutive six-month period,
18 then the offense is a fourth degree felony;

19 D. when the value of all things of value obtained
20 from a person in violation of this section is more than two
21 thousand five hundred dollars (\$2,500) but not more than twenty
22 thousand dollars (\$20,000) in any consecutive six-month period,
23 then the offense is a third degree felony; or

24 E. when the value of all things of value obtained
25 from a person in violation of this section is more than twenty

1 thousand dollars (\$20,000) in any consecutive six-month period,
 2 then the offense is a second degree felony."

3 Section 19. Section 30-16-39 NMSA 1978 (being Laws 1972,
 4 Chapter 23, Section 1, as amended) is amended to read:

5 "30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN POSSESSION
 6 OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL PROPERTY--
 7 PENALTY.--~~[Any]~~ A person who rents or leases a vehicle or other
 8 personal property and obtains or retains possession of it by
 9 means of any false or fraudulent representation, fraudulent
 10 concealment, false pretense [~~or personation~~], trick, artifice
 11 or device, including [~~but not limited to~~] a false
 12 representation as to his name, residence, employment or
 13 operator's license is guilty of a:

14 A. ~~[of a fourth degree felony if the property is a~~
 15 ~~vehicle or has a value in excess]~~ petty misdemeanor if the
 16 vehicle or property has a value of [~~one hundred dollars (\$100);~~
 17 ~~or~~] two hundred fifty dollars (\$250) or less;

18 B. ~~[of a petty misdemeanor if the property is not a~~
 19 ~~vehicle and]~~ misdemeanor if the vehicle or property has a value
 20 of [~~one hundred dollars (\$100) or less]~~ over two hundred fifty
 21 dollars (\$250) but not more than five hundred dollars (\$500);

22 C. fourth degree felony if the property or vehicle
 23 has a value of over five hundred dollars (\$500) but not more
 24 than two thousand five hundred dollars (\$2,500);

25 D. third degree felony if the property or vehicle

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1 has a value of over two thousand five hundred dollars (\$2,500)
2 but not more than twenty thousand dollars (\$20,000); and

3 E. second degree felony if the property or vehicle
4 has a value of over twenty thousand dollars (\$20,000)."

5 Section 20. Section 30-16-40 NMSA 1978 (being Laws 1973,
6 Chapter 154, Section 1, as amended) is amended to read:

7 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
8 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--

9 A. ~~[Any]~~ A person who, after leasing a vehicle or
10 other personal property under a written agreement ~~[which]~~ that
11 provides for the return of the vehicle or personal property to
12 a particular place at a particular time and who, with intent to
13 defraud the lessor of the vehicle or personal property, fails
14 to return the vehicle or personal property to the place within
15 the time specified, is guilty of a:

16 ~~[(1) of a petty misdemeanor if the property is~~
17 ~~not a vehicle and has a value of one hundred dollars (\$100) or~~
18 ~~less;~~

19 ~~(2) of a fourth degree felony if the property~~
20 ~~is not a vehicle and has a value of more than one hundred~~
21 ~~dollars (\$100) but less than two thousand five hundred dollars~~
22 ~~(\$2,500);~~

23 ~~(3) of a fourth degree felony if the vehicle~~
24 ~~has a value of less than two thousand five hundred dollars~~
25 ~~(\$2,500); and~~

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1 ~~(4) of a third degree felony if the property~~
2 ~~or vehicle has a value of two thousand five hundred dollars~~
3 ~~(\$2,500) or more]~~

4 (1) petty misdemeanor if the property or
5 vehicle has a value of two hundred fifty dollars (\$250) or
6 less;

7 (2) misdemeanor if the property or vehicle has
8 a value of over two hundred fifty dollars (\$250) but not more
9 than five hundred dollars (\$500);

10 (3) fourth degree felony if the property or
11 vehicle has a value of over five hundred dollars (\$500) but not
12 more than two thousand five hundred dollars (\$2,500);

13 (4) third degree felony if the property or
14 vehicle has a value of over two thousand five hundred dollars
15 (\$2,500) but not more than twenty thousand dollars (\$20,000);
16 and

17 (5) second degree felony if the property or
18 vehicle has a value of over twenty thousand dollars (\$20,000).

19 B. Failure of the lessee to return the vehicle or
20 personal property to the place specified within seventy-two
21 hours after mailing to him by certified mail at his address
22 shown on the leasing agreement a written demand to return the
23 vehicle or personal property shall raise a rebuttable
24 presumption that the failure to return the vehicle or personal
25 property was with intent to defraud."

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underscored material = new
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1 Section 21. Section 30-17-5 NMSA 1978 (being Laws 1970,
2 Chapter 39, Section 1) is amended to read:

3 "30-17-5. ARSON AND NEGLIGENT ARSON.--

4 A. Arson consists of a person maliciously or
5 willfully starting a fire or causing an explosion with the
6 purpose of destroying or damaging [~~any~~]:

7 (1) a building, occupied structure or property
8 of another [~~or~~] person;

9 (2) a bridge, utility line, fence or sign [~~or~~
10 with the purpose of destroying or damaging]; or

11 (3) any property, whether the person's own
12 property or [~~another's~~] the property of another person, to
13 collect insurance for [~~such~~] the loss.

14 [~~(1)~~] B. Whoever commits arson when the [~~value of~~
15 ~~the thing destroyed or damaged~~] damage is [~~one hundred dollars~~
16 ~~(\$100)] two hundred fifty dollars (\$250) or less is guilty of a
17 petty misdemeanor.~~

18 [~~(2)~~] C. Whoever commits arson when the [~~value of~~
19 ~~the thing destroyed or damaged~~] damage is over [~~one hundred~~
20 ~~dollars (\$100)] two hundred fifty dollars (\$250) but not more
21 than [~~one thousand dollars (\$1,000)] five hundred dollars
22 (\$500) is guilty of a [~~fourth degree felony~~] misdemeanor.~~~~

23 [~~(3)~~] D. Whoever commits arson when the [~~value of~~
24 ~~the thing destroyed or damaged exceeds one thousand dollars~~
25 ~~(\$1,000) is guilty of a third degree felony] damage is over~~

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1 five hundred dollars (\$500) but not more than two thousand five
2 hundred dollars (\$2,500) is guilty of a fourth degree felony.

3 E. Whoever commits arson when the damage is over
4 two thousand five hundred dollars (\$2,500) but not more than
5 twenty thousand dollars (\$20,000) is guilty of a third degree
6 felony.

7 F. Whoever commits arson when the damage is over
8 twenty thousand dollars (\$20,000) is guilty of a second degree
9 felony.

10 ~~[B.]~~ G. Negligent arson consists of a person
11 recklessly starting a fire or causing an explosion, whether on
12 the person's property or ~~[another's]~~ the property of another
13 person, and thereby directly:

14 (1) causing the death or bodily injury of
15 another person; or

16 (2) damaging or destroying a building or
17 occupied structure of another person.

18 H. Whoever commits negligent arson is guilty of a
19 fourth degree felony.

20 ~~[G.]~~ I. As used in this section, "occupied
21 structure" includes a boat, trailer, car, airplane, structure
22 or place adapted for the transportation or storage of property,
23 ~~[or]~~ for overnight accommodations of persons or for carrying on
24 business therein, whether or not a person is actually present."

25 Section 22. Section 30-33-13 NMSA 1978 (being Laws 1963,
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1 Chapter 49, Section 2, as amended) is amended to read:

2 "30-33-13. CRIME TO PROCURE OR TO ATTEMPT TO PROCURE
3 TELECOMMUNICATIONS SERVICE WITHOUT PAYING CHARGE--CRIME TO
4 MAKE, POSSESS, SELL, GIVE OR TRANSFER CERTAIN DEVICES FOR
5 CERTAIN PURPOSES--PENALTY.--

6 A. It is unlawful for [~~any~~] a person, with intent
7 to defraud [~~any~~] a person, firm or corporation, to obtain or to
8 attempt to obtain any telecommunications service without paying
9 the lawful charge, in whole or in part, by any of the following
10 means:

11 (1) charging [~~such~~] the service to an existing
12 telephone number or credit card number without the authority of
13 the subscriber [~~thereto~~] or the legitimate holder [~~thereof~~];

14 (2) charging [~~such~~] the service to a
15 nonexistent, false, fictitious or counterfeit telephone number
16 or credit card number or to a suspended, terminated, expired,
17 canceled or revoked telephone number or credit card number;

18 (3) rearranging, tampering with or making
19 electrical, acoustical, induction or other connection with any
20 facilities or equipment;

21 (4) using a code, prearranged scheme or other
22 strategem or device whereby [~~said~~] the person in effect sends
23 or receives information; or

24 (5) using any other contrivance, device or
25 means to avoid payment of the lawful charges, in whole or in

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1 part, for [~~such~~] the service.

2 B. This [~~subsection~~] section shall apply when [~~said~~
3 ~~telecommunication~~] the telecommunications service either
4 originates or terminates, or both, in this state or when
5 charges for [~~said~~] the service would have been billable in
6 normal course by the public utility providing [~~such~~] the
7 service in this state but for the fact that [~~said~~] the service
8 was obtained or attempted to be obtained by one or more of the
9 means set forth [~~hereinabove~~] in this section.

10 C. Whoever violates this [~~subsection~~] section when
11 the charges for the [~~telecommunication~~] telecommunications
12 service obtained or attempted to be obtained are [~~one hundred~~
13 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) or less is
14 guilty of a petty misdemeanor.

15 D. Whoever violates this [~~subsection~~] section when
16 the charges for the [~~telecommunication~~] telecommunications
17 service obtained or attempted to be obtained are more than [~~one~~
18 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) but
19 not more than [~~two hundred fifty dollars (\$250)~~] five hundred
20 dollars (\$500) is guilty of a misdemeanor.

21 E. Whoever violates this [~~subsection~~] section when
22 the charges for the [~~telecommunication~~] telecommunications
23 service obtained or attempted to be obtained are more than [~~two~~
24 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) but
25 not more than [~~twenty-five~~] two thousand five hundred dollars

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1 (\$2,500) is guilty of fourth degree felony.

2 F. Whoever violates this [~~subsection~~] section when
3 the charges for the [~~telecommunication~~] telecommunications
4 service obtained or attempted to be obtained are more than
5 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) but
6 not more than twenty thousand dollars (\$20,000) is guilty of a
7 third degree felony.

8 G. Whoever violates this [~~subsection~~] section when
9 the charges for the [~~telecommunication~~] telecommunications
10 service obtained or attempted to be obtained exceed twenty
11 thousand dollars (\$20,000) is guilty of a second degree felony.

12 [~~B.~~] H. It is unlawful for [~~any~~] a person under
13 circumstances evidencing an intent to use or employ any
14 instrument, apparatus, equipment or device described in
15 Paragraph (1) of this subsection or to allow the same to be
16 used or employed for the purpose described in Paragraph (1) of
17 this subsection or knowing or having reason to believe that the
18 same is intended to be so used or that the plans and
19 instructions described in Paragraph (2) of this subsection are
20 intended to be used for making or assembling [~~such~~] the
21 instrument, apparatus, equipment or device:

22 (1) to make or possess any instrument,
23 apparatus, equipment or device designed, adapted or [~~which~~]
24 that can be used either:

25 (a) to obtain [~~telecommunication~~]

1 telecommunications service in violation of [~~Subsection A of~~]
2 this section; or

3 (b) to conceal or to assist another to
4 conceal from any supplier of [~~telecommunication~~]
5 telecommunications service or from any lawful authority the
6 existence or place of origin or of destination of any
7 [~~telecommunication~~] telecommunications service; or

8 (2) to sell, give or otherwise transfer to
9 another or to offer or advertise for sale any instrument,
10 apparatus, equipment or device described in Paragraph (1) of
11 this subsection or plans or instructions for making or
12 assembling the same.

13 I. Whoever violates [~~this subsection~~] Subsection H
14 of this section is guilty of a misdemeanor, unless [~~such~~] the
15 person has previously been convicted of [~~such~~] the crime or of
16 an offense under the laws of another state or of the United
17 States [~~which~~] that would have been an offense under [~~this~~
18 ~~subsection~~] Subsection H of this section if committed in this
19 state, in which case [~~such~~] the person is guilty of a fourth
20 degree felony."

21 Section 23. Section 30-36-5 NMSA 1978 (being Laws 1965,
22 Chapter 114, Section 1) is amended to read:

23 "30-36-5. PENALTY.--~~[Any person violating Section 40-49-4~~
24 ~~New Mexico Statutes Annotated, 1953 Compilation]~~ A person who
25 violates Section 30-36-4 NMSA 1978 shall be punished as

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1 follows:

2 A. when the amount of the check, draft or order or
3 the total amount of the checks, drafts or orders [~~are for more~~
4 ~~than one dollar (\$1.00) but less than twenty-five dollars~~
5 ~~(\$25.00), imprisonment in the county jail for a term of not~~
6 ~~more than thirty days or a fine of not more than one hundred~~
7 ~~dollars (\$100), or both such imprisonment and fine] in any
8 consecutive three-month period is one hundred dollars (\$100) or
9 less, the person is guilty of a misdemeanor;~~

10 B. when the amount of the check, draft or order or
11 the total amount of the checks, drafts or orders [~~are for~~
12 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
13 ~~penitentiary for a term of not less than one year nor more than~~
14 ~~three years or the payment of a fine of not more than one~~
15 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~
16 in any consecutive three-month period is over one hundred
17 dollars (\$100) but not more than two thousand five hundred
18 dollars (\$2,500), the person is guilty of a fourth degree
19 felony;

20 C. when the amount of the check, draft or order or
21 the total amount of the checks, drafts or orders in any
22 consecutive three-month period is over two thousand five
23 hundred dollars (\$2,500) but not more than twenty thousand
24 dollars (\$20,000), the person is guilty of a third degree
25 felony; and

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underscored material = new
[bracketed material] = delete

1 D. when the amount of the check, draft or order or
2 the total amount of the checks, drafts or orders in any
3 consecutive three-month period is over twenty thousand dollars
4 (\$20,000), the person is guilty of a second degree felony."

5 Section 24. Section 30-40-1 NMSA 1978 (being Laws 1979,
6 Chapter 170, Section 1, as amended) is amended to read:

7 "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF
8 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE.--

9 A. Failing to disclose facts or change of
10 circumstances to obtain public assistance consists of [~~any~~] a
11 person knowingly failing to disclose [~~any material facts~~] a
12 material fact known to be necessary to determine eligibility
13 for public assistance or knowingly failing to disclose a change
14 in circumstances for the purpose of obtaining or continuing to
15 receive public assistance to which he is not entitled or in
16 amounts greater than that to which he is entitled.

17 B. Whoever commits failing to disclose facts or
18 change of circumstances to obtain public assistance when the
19 value of the assistance wrongfully received is [~~one hundred~~
20 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) or less in any
21 twelve consecutive months is guilty of a petty misdemeanor.

22 C. Whoever commits failing to disclose facts or
23 change of circumstances to obtain public assistance when the
24 value of the assistance wrongfully received is more than [~~one~~
25 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) but

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1 not more than [~~two hundred fifty dollars (\$250)~~] five hundred
2 dollars (\$500) in any twelve consecutive months is guilty of a
3 misdemeanor.

4 D. Whoever commits failing to disclose facts or
5 change of circumstances to obtain public assistance when the
6 value of the assistance wrongfully received is more than [~~two~~
7 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) but
8 not more than two thousand five hundred dollars (\$2,500) in any
9 twelve consecutive months is guilty of a fourth degree felony.

10 E. Whoever commits failing to disclose facts or
11 change of circumstances to obtain public assistance when the
12 value of the assistance wrongfully received is more than two
13 thousand five hundred dollars (\$2,500) but not more than twenty
14 thousand dollars (\$20,000) in any twelve consecutive months is
15 guilty of a third degree felony.

16 F. Whoever commits failing to disclose facts or
17 change of circumstances to obtain public assistance when the
18 value of the assistance wrongfully received exceeds twenty
19 thousand dollars (\$20,000) in any twelve consecutive months is
20 guilty of a second degree felony."

21 Section 25. Section 30-40-2 NMSA 1978 (being Laws 1979,
22 Chapter 170, Section 2, as amended) is amended to read:

23 "30-40-2. UNLAWFUL USE OF FOOD STAMP IDENTIFICATION CARD
24 OR MEDICAL IDENTIFICATION CARD.--

25 A. Unlawful use of food stamp identification card

1 or medical identification card consists of the use of a food
2 stamp or medical identification card by ~~[any]~~ a person to whom
3 it has not been issued, or who is not an authorized
4 representative of the person to whom it has been issued, for a
5 food stamp allotment.

6 B. Whoever commits unlawful use of food stamp
7 identification card or medical identification card when the
8 value of the food stamps or medical services wrongfully
9 received is ~~[one hundred dollars (\$100)]~~ two hundred fifty
10 dollars (\$250) or less is guilty of a petty misdemeanor.

11 C. Whoever commits unlawful use of food stamp
12 identification card or medical identification card when the
13 value of the food stamps or medical services wrongfully
14 received is more than ~~[one hundred dollars (\$100)]~~ two hundred
15 fifty dollars (\$250) but not more than ~~[two hundred fifty~~
16 ~~dollars (\$250)]~~ five hundred dollars (\$500) is guilty of a
17 misdemeanor.

18 D. Whoever commits unlawful use of food stamp
19 identification card or medical identification card when the
20 value of the food stamps or medical services wrongfully
21 received is more than ~~[two hundred fifty dollars (\$250)]~~ five
22 hundred dollars (\$500) but not more than two thousand five
23 hundred dollars (\$2,500) is guilty of a fourth degree felony.

24 E. Whoever commits unlawful use of food stamp
25 identification card or medical identification card when the

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1 value of the food stamps or medical services wrongfully
2 received is more than two thousand five hundred dollars
3 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
4 guilty of a third degree felony.

5 F. Whoever commits unlawful use of food stamp
6 identification card or medical identification card when the
7 value of the food stamps or medical services wrongfully
8 received exceeds twenty thousand dollars (\$20,000) is guilty of
9 a second degree felony.

10 G. For the purpose of this section, the value of
11 the medical assistance received is the amount paid by the human
12 services department for medical services received through use
13 of the medical identification card."

14 Section 26. Section 30-40-3 NMSA 1978 (being Laws 1979,
15 Chapter 170, Section 3, as amended) is amended to read:

16 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE.--

17 A. Misappropriating public assistance consists of
18 [~~any~~] a public officer or public employee fraudulently
19 misappropriating, attempting to misappropriate or aiding and
20 abetting in the misappropriation of food stamp coupons, WIC
21 checks pertaining to the special supplemental food program for
22 women, infants and children administered by the [~~health and~~
23 ~~environment~~] human services department, food stamp or medical
24 identification cards, public assistance benefits or funds
25 received in exchange for food stamp coupons.

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1 B. Whoever commits misappropriating public
2 assistance when the value of the thing misappropriated is [~~one~~
3 ~~hundred dollars (\$100)] two hundred fifty dollars (\$250) or
4 less is guilty of a petty misdemeanor.~~

5 C. Whoever commits misappropriating public
6 assistance when the value of the thing misappropriated is more
7 than [~~one hundred dollars (\$100)] two hundred fifty dollars
8 (\$250) but not more than [~~two hundred fifty dollars (\$250)]
9 five hundred dollars (\$500) is guilty of a misdemeanor.~~~~

10 D. Whoever commits misappropriating public
11 assistance when the value of the thing misappropriated is more
12 than [~~two hundred fifty dollars (\$250)] five hundred dollars
13 (\$500) but not more than two thousand five hundred dollars
14 (\$2,500) is guilty of a fourth degree felony.~~

15 E. Whoever commits misappropriating public
16 assistance when the value of the thing misappropriated is more
17 than two thousand five hundred dollars (\$2,500) but not more
18 than twenty thousand dollars (\$20,000) is guilty of a third
19 degree felony.

20 F. Whoever commits misappropriating public
21 assistance when the value of the thing misappropriated exceeds
22 twenty thousand dollars (\$20,000) is guilty of a second degree
23 felony.

24 G. Whoever commits misappropriating public
25 assistance when the item misappropriated is a food stamp or

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1 medical identification card is guilty of a fourth degree
2 felony."

3 Section 27. Section 30-40-6 NMSA 1978 (being Laws 1979,
4 Chapter 170, Section 6, as amended) is amended to read:

5 "30-40-6. FAILURE TO REIMBURSE THE HUMAN SERVICES
6 DEPARTMENT UPON RECEIPT OF THIRD PARTY PAYMENT.--

7 A. Failure to reimburse the human services
8 department upon receipt of third party payment consists of
9 [~~knowingly~~] knowing failure by a medicaid provider to reimburse
10 the human services department or the department's fiscal agent
11 the amount of payment received from the department for services
12 when the provider receives payment for the same services from
13 [~~any~~] a third party.

14 B. A medicaid provider who commits failure to
15 reimburse the human services department upon receipt of third
16 party payment when the value of the payment made by the
17 department is [~~one hundred dollars (\$100)~~] two hundred fifty
18 dollars (\$250) or less is guilty of a petty misdemeanor.

19 C. A medicaid provider who commits failure to
20 reimburse the human services department upon receipt of third
21 party payment when the value of the payment made by the
22 department is more than [~~one hundred dollars (\$100)~~] two
23 hundred fifty dollars (\$250) but not more than [~~two hundred~~
24 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
25 a misdemeanor.

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1 D. A medicaid provider who commits failure to
 2 reimburse the human services department upon receipt of third
 3 party payment when the value of the payment made by the
 4 department is more than [~~two hundred fifty dollars (\$250)~~] five
 5 hundred dollars (\$500) but not more than two thousand five
 6 hundred dollars (\$2,500) is guilty of a fourth degree felony.

7 E. A medicaid provider who commits failure to
 8 reimburse the human services department upon receipt of third
 9 party payment when the value of the payment made by the
 10 department is more than two thousand five hundred dollars
 11 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
 12 guilty of a third degree felony.

13 F. A medicaid provider who commits failure to
 14 reimburse the human services department upon receipt of third
 15 party payment when the value of the payment made by the
 16 department exceeds twenty thousand dollars (\$20,000) is guilty
 17 of a second degree felony."

18 Section 28. Section 30-45-3 NMSA 1978 (being Laws 1989,
 19 Chapter 215, Section 3) is amended to read:

20 "30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR
 21 EMBEZZLE.--[~~Any~~] A person who knowingly and willfully accesses
 22 or causes to be accessed [~~any~~] a computer, computer system,
 23 computer network or any part thereof with the intent to obtain,
 24 by means of embezzlement or false or fraudulent pretenses,
 25 representations or promises, money, property or anything of

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1 value, ~~[where]~~ when the:

2 A. ~~[the]~~ money, property or other thing has a value
3 of ~~[one hundred dollars (\$100)]~~ two hundred fifty dollars
4 ~~(\$250)~~ or less, is guilty of a petty misdemeanor;

5 B. ~~[the]~~ money, property or other thing has a value
6 of more than ~~[one hundred dollars (\$100)]~~ two hundred fifty
7 dollars (\$250) but not more than ~~[two hundred fifty dollars~~
8 ~~(\$250)]~~ five hundred dollars (\$500), is guilty of a misdemeanor
9 ~~[and shall be sentenced pursuant to the provisions of Section~~
10 ~~31-19-1 NMSA 1978]~~;

11 C. ~~[the]~~ money, property or other thing has a value
12 of more than ~~[two hundred fifty dollars (\$250)]~~ five hundred
13 dollars (\$500) but not more than two thousand five hundred
14 dollars (\$2,500), is guilty of a fourth degree felony ~~[and~~
15 ~~shall be sentenced pursuant to the provisions of Section~~
16 ~~31-18-15 NMSA 1978]~~;

17 D. ~~[the]~~ money, property or other thing has a value
18 of more than two thousand five hundred dollars (\$2,500) but not
19 more than twenty thousand dollars (\$20,000), is guilty of a
20 third degree felony ~~[and shall be sentenced pursuant to the~~
21 ~~provisions of Section 31-18-15 NMSA 1978]~~; or

22 E. ~~[the]~~ money, property or other thing has a value
23 of more than twenty thousand dollars (\$20,000), is guilty of a
24 second degree felony ~~[and shall be sentenced pursuant to the~~
25 ~~provisions of Section 31-18-15 NMSA 1978]."~~

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1 Section 29. Section 30-45-4 NMSA 1978 (being Laws 1989,
2 Chapter 215, Section 4) is amended to read:

3 "30-45-4. COMPUTER ABUSE.--~~[Any]~~ A person who knowingly,
4 willfully and without authorization, or having obtained
5 authorization, uses the opportunity the authorization provides
6 for purposes to which the authorization does not extend:

7 A. directly or indirectly alters, changes, damages,
8 disrupts or destroys any computer, computer network, computer
9 property, computer service or computer system, ~~[where]~~ when
10 the:

11 (1) ~~[the]~~ damage to the computer property or
12 computer service has a value of ~~[one hundred dollars (\$100)]~~
13 two hundred fifty dollars (\$250) or less, is guilty of a petty
14 misdemeanor;

15 (2) ~~[the]~~ damage to the computer property or
16 computer service has a value of more than ~~[one hundred dollars~~
17 ~~(\$100)]~~ two hundred fifty dollars (\$250) but not more than ~~[two~~
18 ~~hundred fifty dollars (\$250)]~~ five hundred dollars (\$500), is
19 guilty of a misdemeanor ~~[and shall be sentenced pursuant to the~~
20 ~~provisions of Section 31-19-1 NMSA 1978];~~

21 (3) ~~[the]~~ damage to the computer property or
22 computer service has a value of more than ~~[two hundred fifty~~
23 ~~dollars (\$250)]~~ five hundred dollars (\$500) but not more than
24 two thousand five hundred dollars (\$2,500), is guilty of a
25 fourth degree felony ~~[and shall be sentenced pursuant to the~~

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1 ~~provisions of Section 31-18-15 NMSA 1978];~~

2 (4) ~~[the]~~ damage to the computer property or
3 computer service has a value of more than two thousand five
4 hundred dollars (\$2,500) but not more than twenty thousand
5 dollars (\$20,000), is guilty of a third degree felony ~~[and~~
6 ~~shall be sentenced pursuant to the provisions of Section~~
7 ~~31-18-15 NMSA 1978];~~ or

8 (5) ~~[the]~~ damage to the computer property or
9 computer service has a value of more than twenty thousand
10 dollars (\$20,000), is guilty of a second degree felony ~~[and~~
11 ~~shall be sentenced pursuant to the provisions of Section~~
12 ~~31-18-15 NMSA 1978];~~ or

13 B. directly or indirectly introduces or causes to
14 be introduced data ~~[which]~~ that the person knows to be false
15 into a computer, computer system, computer network, computer
16 software, computer program, database or any part thereof with
17 the intent of harming the property or financial interests or
18 rights of ~~[any]~~ another person is guilty of a fourth degree
19 felony ~~[and shall be sentenced pursuant to the provisions of~~
20 ~~Section 31-18-15 NMSA 1978]."~~

21 Section 30. Section 30-45-5 NMSA 1978 (being Laws 1989,
22 Chapter 215, Section 5) is amended to read:

23 "30-45-5. UNAUTHORIZED COMPUTER USE.--~~[Any]~~ A person who
24 knowingly, willfully and without authorization, or having
25 obtained authorization, uses the opportunity ~~[such]~~ the

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1 authorization provides for purposes to which the authorization
 2 does not extend, directly or indirectly accesses, uses, takes,
 3 transfers, conceals, obtains, copies or retains possession of
 4 any computer, computer network, computer property, computer
 5 service, computer system or any part thereof, ~~where~~ when the:

6 A. ~~the~~ damage to the computer property or
 7 computer service has a value of ~~[one hundred dollars (\$100)]~~
 8 two hundred fifty dollars (\$250) or less, is guilty of a petty
 9 misdemeanor;

10 B. ~~the~~ damage to the computer property or
 11 computer service has a value of more than ~~[one hundred dollars~~
 12 ~~(\$100)]~~ two hundred fifty dollars (\$250) but not more than ~~[two~~
 13 ~~hundred fifty dollars (\$250)]~~ five hundred dollars (\$500), is
 14 guilty of a misdemeanor ~~[and shall be sentenced pursuant to the~~
 15 ~~provisions of Section 31-19-1 NMSA 1978];~~

16 C. ~~the~~ damage to the computer property or
 17 computer service has a value of more than ~~[two hundred fifty~~
 18 ~~dollars (\$250)]~~ five hundred dollars (\$500) but not more than
 19 two thousand five hundred dollars (\$2,500), is guilty of a
 20 fourth degree felony ~~[and shall be sentenced pursuant to the~~
 21 ~~provisions of Section 31-18-15 NMSA 1978];~~

22 D. ~~the~~ damage to the computer property or
 23 computer service has a value of more than two thousand five
 24 hundred dollars (\$2,500) but not more than twenty thousand
 25 dollars (\$20,000), is guilty of a third degree felony ~~[and~~

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1 ~~shall be sentenced pursuant to the provisions of Section~~
2 ~~31-18-15 NMSA 1978]; or~~

3 E. ~~[the]~~ damage to the computer property or
4 computer service has a value of more than twenty thousand
5 dollars (\$20,000), is guilty of a second degree felony ~~[and~~
6 ~~shall be sentenced pursuant to the provisions of Section~~
7 ~~31-18-15 NMSA 1978]."~~

8 Section 31. Section 30-47-6 NMSA 1978 (being Laws 1990,
9 Chapter 55, Section 6) is amended to read:

10 "30-47-6. EXPLOITATION--CRIMINAL PENALTIES.--

11 A. Exploitation of a resident's property consists
12 of the act or process, performed intentionally, knowingly or
13 recklessly, of using a resident's property for another person's
14 profit, advantage or benefit without legal entitlement to do
15 so.

16 B. Whoever commits exploitation of a resident's
17 property when the value of the property exploited is ~~[one~~
18 ~~hundred dollars (\$100)]~~ two hundred fifty dollars (\$250) or
19 less is guilty of a petty misdemeanor ~~[and upon conviction~~
20 ~~shall be sentenced pursuant to the provisions of Subsection B~~
21 ~~of Section 31-19-1 NMSA 1978].~~

22 C. Whoever commits exploitation of a resident's
23 property when the value of the property exploited is over ~~[one~~
24 ~~hundred dollars (\$100)]~~ two hundred fifty dollars (\$250) but
25 not more than ~~[two hundred fifty dollars (\$250)]~~ five hundred

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1 dollars (\$500) is guilty of a misdemeanor [~~and upon conviction~~
2 ~~shall be sentenced pursuant to the provisions of Subsection A~~
3 ~~of Section 31-19-1 NMSA 1978~~].

4 D. Whoever commits exploitation of a resident's
5 property when the value of the property exploited is over [~~two~~
6 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) but
7 not more than two thousand five hundred dollars (\$2,500) is
8 guilty of a fourth degree felony [~~and upon conviction shall be~~
9 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~
10 ~~1978~~].

11 E. Whoever commits exploitation of a resident's
12 property when the value of the property exploited is over two
13 thousand five hundred dollars (\$2,500) but not more than twenty
14 thousand dollars (\$20,000) is guilty of a third degree felony
15 [~~and upon conviction shall be sentenced pursuant to the~~
16 ~~provisions of Section 31-18-15 NMSA 1978~~].

17 F. Whoever commits exploitation of a resident's
18 property when the value of the property exploited is over
19 twenty thousand dollars (\$20,000) is guilty of a second degree
20 felony [~~and upon conviction shall be sentenced pursuant to the~~
21 ~~provisions of Section 31-18-15 NMSA 1978~~]."

22 Section 32. Section 30-50-4 NMSA 1978 (being Laws 1995,
23 Chapter 37, Section 4) is amended to read:

24 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES.--[~~Any~~] A
25 person who knowingly and willfully engages in telemarketing to

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1 or from a telephone located in New Mexico with the intent to
2 embezzle or to obtain money, property or any thing of value by
3 fraudulent pretenses, representations or promises in the course
4 of a telephone communication, when the:

5 A. ~~[the]~~ money, property or thing has a value of
6 ~~[less than two hundred fifty dollars (\$250), is guilty of a~~
7 ~~misdemeanor and shall be sentenced pursuant to the provisions~~
8 ~~of Section 31-19-1 NMSA 1978]~~ two hundred fifty dollars (\$250)
9 or less, is guilty of a petty misdemeanor;

10 B. ~~[the]~~ money, property or thing has a value of
11 ~~[two hundred fifty dollars (\$250) or more but less than two~~
12 ~~thousand five hundred dollars (\$2,500), is guilty of a fourth~~
13 ~~degree felony and shall be sentenced pursuant to the provisions~~
14 ~~of Section 31-18-15 NMSA 1978]~~ more than two hundred fifty
15 dollars (\$250) but not more than five hundred dollars (\$500),
16 is guilty of a misdemeanor;

17 C. money, property or thing has a value of more
18 than five hundred dollars (\$500) but not more than two thousand
19 five hundred dollars (\$2,500), is guilty of a fourth degree
20 felony;

21 ~~[G. the]~~ D. money, property or thing has a value
22 of more than two thousand five hundred dollars (\$2,500) ~~[or~~
23 ~~more but less]~~ but not more than twenty thousand dollars
24 (\$20,000), is guilty of a third degree felony ~~[and shall be~~
25 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~

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1 1978]; or

2 [D. ~~the~~] E. money, property or thing has a value
3 of more than twenty thousand dollars (\$20,000) [~~or more~~], is
4 guilty of a second degree felony [~~and shall be sentenced~~
5 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978~~]."

6 Section 33. Section 59A-16-23 NMSA 1978 (being Laws 1984,
7 Chapter 127, Section 290) is amended to read:

8 "59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS.--

9 A. [~~No~~] An agent, broker, solicitor, examining
10 physician, applicant or other person shall not knowingly or
11 [~~wilfully~~] willfully:

12 (1) make [~~any~~] a false or fraudulent statement
13 or representation as to [~~any~~] a material fact in or with
14 reference to [~~any~~] an application for insurance or other
15 coverage; [~~or~~]

16 (2) for the purpose of obtaining [~~any~~] money
17 or benefit, present or cause to be presented a false or
18 fraudulent claim or [~~any~~] proof in support of such a claim for
19 payment of loss under a policy; [~~or~~]

20 (3) prepare, make or subscribe a false or
21 fraudulent account, certificate, affidavit or proof of loss or
22 other document with intent that the same may be presented or
23 used in support of such a claim; or

24 (4) make [~~any~~] a false or fraudulent statement
25 or representation on or relative to an application for a policy

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1 for the purpose of obtaining [~~any~~] a fee, commission or benefit
2 from an insurer, agent, broker or individual.

3 B. [~~Any such~~] A false statement or representation
4 made under oath shall constitute and be punishable as perjury
5 [~~and any violation~~]. A violation of the provisions of this
6 section [~~shall constitute and be punishable as a felony~~] when
7 the purported loss or potential loss to the victim insurer is:

8 (1) two hundred fifty dollars (\$250) or less
9 is a petty misdemeanor;

10 (2) over two hundred fifty dollars (\$250) but
11 not more than five hundred dollars (\$500) is a misdemeanor;

12 (3) over five hundred dollars (\$500) but not
13 more than two thousand five hundred dollars (\$2,500) is a
14 fourth degree felony;

15 (4) over two thousand five hundred dollars
16 (\$2,500) but not over twenty thousand dollars (\$20,000) is a
17 third degree felony; or

18 (5) over twenty thousand dollars (\$20,000) is
19 a second degree felony.

20 C. Whoever knowingly conspires with another person
21 or engages another person by soliciting, commanding,
22 requesting, inducing or employing that person to commit false
23 application or fraudulent claim or to submit a fraudulent proof
24 of loss, if found guilty, shall be sentenced in accordance with
25 the provisions of Subsection B of this section."

1 Section 34. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2005.

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